

## **REMARKS/ARGUMENTS**

Reexamination of the captioned application is respectfully requested.

### **A. SUMMARY OF THIS AMENDMENT**

By the current amendment, Applicants basically:

1. Thank the examiner for withdrawal of the new matter rejection and the 35 USC §112, second paragraph, rejection regarding claim 25.
2. Attempt to clarify a previously proposed amendment to the specification (see remarks section B infra).
3. Amend independent claim 1, 19, 51, 55, 59, and 62.
4. Traverse the rejection of claims 38 and 39 under 35 USC §101 (see remarks section C infra).
5. Respectfully traverse all prior art rejections (see remarks section D infra).

### **B. THE SPECIFICATION**

Applicants note with appreciation the Examiner's request for clarification of an attempted amendment regarding a paragraph which begins on page 12, line 33 of the specification. Applicants attempt to explain below.

The April 24, 2008 amendment purported to make an amendment to paragraphs extending from page 12, line 1 to page 12, line 31 (see page 6 of the April 24, 2008 amendment). However, the text that followed the instruction to "*Please amend the paragraph beginning at page 12, line 1, and continuing to page 12, line 31, as follows:*" actually further included the first paragraph on page 13. No mention was made of the last paragraph on page 12, a one sentence paragraph which begins on line 33 of page 12.

Applicants are concerned, by reason of their inclusion of the first paragraph of page 13 in the April 24, 2008 request to amend page 12, without any intervening reference to the last paragraph on page 12, that perhaps the last paragraph on page 12 on page 12 may have been deleted.

That last paragraph on page 12, which is the reason for the concern, is reproduced below:

As can be derived from fig. 5, for uplink communications in the compressed mode transmission gaps are only arranged between two consecutive slots and its data and control slots, respectively.

If the Office can assure that the last paragraph of page 12 remains in tact and has not been deleted, then Applicants proposed amendment can continue to be ignored. Otherwise the undersigned would appreciate suggestions for rectifying the matter.

### **C. CLAIMS 38 AND 39 ARE STATUTORY**

Applicants respectfully traverse the rejection of claims 38 and 39 under 35 USC §101. Applicants appreciate the Examiner's suggestion on page 6 of the office action that applicants amend the claims to embody the program on "computer-readable medium" ... in order to make the claims statutory. But Applicants believe that both claims 38 and 39 already include the statutory language proposed by the Examiner. Claims 38 and 39 are reproduced for convenience below and with emphasis:

38. (Previously Presented) A computer program product, comprising program code portions for carrying out steps according to claim 1, the computer program product being stored on a ***computer readable storage medium or in a computer readable storage device.***

39. (Previously Presented) The computer program product according to claim 38, being stored ***on a computer readable storage medium or in a computer readable storage device.***

The office action seems to raise some question whether the scope of the Examiner's suggested amendment (to embody the program on "computer-readable medium") is commensurate with the corresponding disclosure. Applicants note, however, that original claim 39 included the phrase ***on a computer readable storage medium or in a computer readable storage device.*** Since the original claims indeed form part of the disclosure, Applicants fail to understand any basis for concern.

If Applicants have failed to appreciate the rejection or suggestion, further guidance or explanation would be most welcome. Otherwise it is hoped that the 35 USC §101 rejection will be withdrawn.

#### **D. PATENTABILITY OF THE CLAIMS**

Claim 62 stands rejected under 35 USC 102(b) as being anticipated by U.S. Patent 5,732,076 to Ketseoglou et al. Claims 1-61 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 5,732,076 to Ketseoglou et al in view of U.S. Patent 5,793,759 to Rakib et al. All prior art rejections are respectfully traversed for at least the following reasons.

Applicants have previously explained their position regarding both Ketseoglou and Rakib, both individually and in combination. In essence, Applicants believe and reiterate that the alleged gap of the Ketseoglou's composite time frame thus does not qualify as a transmission gap of a **communications standard**, as required by independent claim 1 ("communicating according to the first communications standard type by using a first frame structure including at least one transmission gap"); independent claim 19 ("to utilize first communications resources for communications

according to a first communications standard type”...” wherein the first communications resources comprise a first frame structure including at least one transmission gap”); new independent claims 51 and 55 (“the first communications standard prescribing a first frame structure including at least one transmission gap”); and new independent claims 59 and 62 (“adaptively controlling a sharing of the first communication resources prescribed by the first communication standard with the second communications”).

Further, what the transmission that the office action cites as occurring in the Rakib gap is not a transmission included in a standardized frame transmitted by the central unit, but rather re-transmission of a barker code from a remote unit, which retransmission is received during the gap.

Applicants entreat the Examiner to carefully reconsider their previous detailed arguments, which are incorporated herein by reference.

In responding to Applicants’ arguments, the recent office action alleges that Rakib discloses transmission of timing signals for frame alignment in gaps between frames. Again Applicants stress that those timing signals are not part of a frame structure. And to distinguish yet further from the postulated combination Applicants have amended all independent claims to clarify that what is transmitted in the gap is not only part of a second standardized frame, but data of the second communications. This further distinguishes from the mere non-frame signals of Rakib.

## **E. MISCELLANEOUS**

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly solicited.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,  
**NIXON & VANDERHYE P.C.**

By: /H. Warren Burnam, Jr./  
H. Warren Burnam, Jr.  
Reg. No. 29,366

HWB:lsh  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100